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OLIVER W. GAMBLE  
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EXAMINER
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CHOW, MING

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 03/24/2004

6

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/803,257

Applicant(s)

GAMBLE, OLIVER W.

Examiner

Ming Chow

Art Unit

2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

*Claim Objections*

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not). On page 54, between claims 27 and 28, a claim was misnumbered.

The misnumbered claim "The system according to claim 26, wherein the processor is further configured for analyzing position of said tones or pulse; and said decoder is further configured for translating said tones or pulse and position information into instructions." has been renumbered 52.

*Drawings*

2. The drawings are objected to because proper legends were missing. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 12, 23, 33, 35, 39, 41, 43, 46-51 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase “said incoming instructions” (line 6) is not clearly defined. The “said incoming instructions” refers to instructions in plural. However, the “at least one incoming instruction” claimed earlier in claim 1 line 5 may refer to a singular incoming instruction.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Art Unit: 2645

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1, 12, 23, 33, 35, 37, 2, 5, 13, 16, 24, 27, 3, 6, 14, 17, 25, 52, 4, 15, 26, 34, 36, 38-44, 46-51, 7, 18, 28, 11, 22, 32, 45 are rejected under 35 U.S.C. 102(e) as being anticipated by Walsh et al (US: 6144848).

For claims 1, 12, 23, 33, 35, 37 regarding “monitoring a communication system for activity”, Walsh et al teach on column 30 line 62-65 CPT for detecting status of communication path (reads on claimed “monitoring a communication system for activity”).

Regarding “detecting whether.....incoming instruction”, Walsh et al teach on column 31 line 1 to column 32 line 54 the authentication (claimed “activity”) is performed before an order session begins and instructions are taken.

Regarding “storing said.....incoming instructions”, Walsh et al teach on column 9 line 7-10 the host server CPU receives (reads on claimed “storing”) the command instructions.

Regarding “transmitting said incoming instructions to said device”, Walsh et al teach on column 32 line 57-60 the command instruction is transmitted to processing element for order processing.

Art Unit: 2645

Regarding claims 2, 5, 13, 16, 24, 27, Walsh et al teach on column 9 line 4-10 transmits DTMF tones as command instructions.

Regarding claims 3, 6, 14, 17, 25, 52, Walsh et al teach on column 38 line 65 to column 39 line 40 DTMF tones are a sequence (reads on claimed "position") of single DTMF tone. The DTMF tones must be analyzed to determine the sequence of tone signals.

Regarding claims 4, 15, 26, 34, 36, 38-44, 46-51, all rejections as stated in claim 1 above apply.

Regarding "detecting whether the communication system is off hook", Walsh et al teach on column 30 line 46-47 the microprocessor takes the line "off hook".

Regarding "determining whether.....off hook", Walsh et al teach on column 30 line 46-58 an incoming call is made when the line is "off hook".

Regarding "determining whether a call is established to access the remote device", Walsh et al teach on column 31 line 1-3 the host server answers and receives the call.

Regarding "controlling said device based on said instruction", Walsh et al teach on column 32 line 58-62 facilitates the user ordering goods and/or services from an order processing element.

Regarding claims 7, 18, 28, Walsh et al teach on item 120 Fig. 1B user device (claimed "central server") transmits DTMF tones.

Art Unit: 2645

Regarding claims 11, 22, 32, 45, Walsh et al teach on column 8 line 17 to column 9 line 18 DTMF signals are transmitted via a modem and received by a CPU (reads on claimed "DTMF tones are converted and transmitted as electrical pulses").

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8, 19, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walsh et al as applied to claim 5 above, and in view of Segal et al (US: 6167251).

Walsh et al failed to teach "the tones or pulse are transmitted by an internet central server". However, Segal et al teach on Fig. 32 a cellular phone with an internet connection.

It would have been obvious to one skilled at the time the invention was made to modify Walsh et al to have the "the tones or pulse are transmitted by an internet central server" as taught by Segal et al such that the modified system of Walsh et al would be able to support the internet central server to the system users.

Art Unit: 2645

6. Claims 9, 20, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walsh et al as applied to claim 5 above, and in view of Irie (JP: 410126494).

Walsh et al failed to teach “converting said.....incoming instructions”, However, Irie teaches on SOLUTION – converting DTMF command signals to infrared signals by a telephone set.

It would have been obvious to one skilled at the time the invention was made to modify Walsh et al to have the “converting said.....incoming instructions” as taught by Irie such that the modified system of Walsh et al would be able to support the converting DTMF to IR to the system users.

7. Claims 10, 21, 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walsh et al as applied to claim 5 above, and in view of Goto et al (US: 6044278).

Walsh et al failed to teach “converting said.....incoming instructions”. However, Goto et al teach on column 4 line 65-67 converting DTMF signals to voice signals.

It would have been obvious to one skilled at the time the invention was made to modify Walsh et al to have the “converting said.....incoming instructions” as taught by Goto et al such that the modified system of Walsh et al would be able to support the converting DTMF to audio data to the system users.

### ***Conclusion***



Art Unit: 2645

8. The prior art made of record and not replied upon is considered pertinent to applicant's disclosure.

- Bohn (US: 6639583) teaches user interface utilizing a computer pointing device with infrared bridge.

9. Any inquiry concerning this application and office action should be directed to the examiner Ming Chow whose telephone number is (703) 305-4817. The examiner can normally be reached on Monday through Friday from 8:30 am to 5 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang, can be reached on (703) 305-4895. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service whose telephone number is (703) 306-0377. Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks**

**Washington, D.C. 20231**

**Or faxed to Central FAX Number 703-872-9306.**

Patent Examiner

Art Unit 2645

Ming Chow



FAN TSANG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

